

Remarks

Applicants hereby add claims 52-62. Accordingly, claims 21-62 are pending in the present application.

Claims 21-23, 25, 28-30, 32-33 and 39-41 stand rejected on the ground of non-statutory obviousness-type double patenting. Claims 27, 35-36, 43 and 51 stand rejected under 35 USC 112, first paragraph. Claims 21-51 stand rejected under 35 USC 102(b) for anticipation by 5,574,849 to Sonnier et al.

Applicants respectfully traverse the rejections and urge allowance of the present application.

Referring to the obviousness-type double patenting rejection, Applicants submit a terminal disclaimer herewith. Applicants respectfully request withdrawal of the double patenting rejection in view of the terminal disclaimer.

Referring to the 112 rejections, first paragraph, the Examiner is respectfully reminded that the MPEP states the test for sufficiency of support in an application is whether the disclosure relied upon *reasonably conveys* to the artisan that the inventor had possession at that time of the later claimed subject matter. MPEP §2163.02 (8th ed., rev. 3) *citing Ralston Purina Co. v. Far-Mar-Co., Inc.*, 772 F.2d 1570, 1575, 227 USPQ 177, 179 (Fed. Cir. 1985). Notably, the *subject matter of the claim need not be described literally* (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement. MPEP §2163.02 (8th ed., rev. 3).

MPEP §2163 I. (8th ed., rev. 3) states it is now well accepted that a satisfactory description may be in the claims or any other portion of the originally-filed specification and an applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention.

MPEP § 2163.07(a) (8th ed., rev. 3) states that by disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it. The application may later be amended to recite the function, theory or advantage without introducing prohibited new matter. *In re Reynolds*, 443 F.2d 384, 170 USPQ 94 (CCPA 1971); *In re Smythe*, 480 F.2d 1376, 178 USPQ 279 (CCPA 1973).

Applicants note MPEP 2163 II. A. (8th ed., rev. 3), which states the Examiner has the initial burden, after a thorough reading and evaluation of the content of the

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application, of presenting evidence or reasons why a person skilled in the art would not recognize that the written description of the invention provides support for the claims. Further, it is stated that if applicant points out where a claim is supported, the Examiner has the initial burden of presenting evidence or reasoning to explain why persons skilled in the art would not recognize in the disclosure a description of the invention defined in the claims.

Further, MPEP §2163.III.A (8th ed., rev. 3) provides:

In rejecting a claim, *the examiner must set forth express findings of fact regarding the above analysis which support the lack of written description conclusion.* These findings should:

(A) Identify the claim limitation at issue; and

(B) Establish a *prima facie* case by providing reasons why a person skilled in the art at the time the application was filed would not have recognized that the inventor was in possession of the invention as claimed in view of the disclosure of the application as filed.

Referring to claim 27, the Office on pages 7-8 of the Action fails to provide the reasons required under 2163.III.A(B) and accordingly has failed to provide a *prima facie* rejection of claim 27. To the contrary of the position of the Office, the original specification at page 6, lines 3 states that *all further data transfers* are disabled in one embodiment. It is understood by one of skill in the art the data transfers may include transactions which do not include a fault. Claim 27 is adequately described and the rejection under 112 is improper for at least this reason.

Referring to claim 35, the Office again has failed to provide reasons as required by the MPEP and the Office has failed to establish a *prima facie* 112 rejection for at least this reason. Nonetheless, page 6 described one example where all further data transfers are disabled and one of skill in the art would understand these to include transactions which would otherwise be processed. Claim 35 is adequately described and the rejection under 112 is improper for the above reasons.

Referring to claim 36, the Office has failed provide reasons for the 112 rejection and accordingly the Office has failed to establish a *prima facie* rejection of the claim. The original specification at page 6 reasonably conveys to one of skill in the art that subsequent transactions which are not processed may include transactions which do not include a fault. The 112 rejection is improper in view of the above-recited authority.

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Referring to claim 43, the Office has failed to provide reasons for the 112 rejection and accordingly the Office has failed to establish a prima facie rejection of the claim. Furthermore, the teachings of page 6 described disablement of further data transfers which describe to one of skill in the art that some of the communications which are disabled may include a transaction not including a fault. Claim 43 is adequately described and the rejection under 112 is improper for the above reasons.

Referring to claim 51, the Office has failed to provide reasons for the 112 rejection and accordingly the Office has failed to establish a prima facie rejection of the claim. Furthermore, the teachings of page 6 described disablement of further data transfers which describe to one of skill in the art that some of the communications which are disabled may not include a fault. Claim 51 is adequately described and the rejection under 112 is improper for the above reasons.

The Office Action provides no evidence or reasoning in support of the bald allegations that the inventors did not possess the claims at the time the application was filed. Such fails the clear mandate of the MPEP. Applicant respectfully request clarification of the 112, first paragraph, rejections in a non-final action if such rejection is maintained in the next Action so Applicant may appropriately respond.

Referring to the anticipation rejections, Applicant notes the requirements of MPEP §2131 (8th ed., rev. 3), which states that TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 16 USPQ2d 1566 (Fed. Cir. 1990).

Referring to claim 21, the data storage system comprises at least one component configured to disable communication of subsequent transactions from an other component to the one component after the detection of the transaction including the fault from the other component. The Office on page 9 of the Action relies upon the teachings of col. 5, lines 45-53 of Sonnier in support of the anticipation rejection. The identified teachings baldly disclose without detail isolation of a link or router element that introduces an error with respect to the identification of a CRC error within one message packet. No specifics regarding how the isolation is to be implemented is disclosed. The bald generic teachings with respect to one message packet having an incorrect CRC as disclosed in col. 5 of Sonnier fails to teach or suggest that

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communications are disabled as positively defined in claim 21. Positively recited limitations of claim 21 are not disclosed nor suggested by the prior art and the Office has failed to establish a proper 102 rejection for at least this reason.

The claims which depend from independent claim 21 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claim 23, the *system comprises storage circuitry comprising a plurality of redundant storage circuits configured to redundantly store digital data*. At page 10 of the Action, the Office relies upon the teachings of Figs. 1a and 2 and col. 14, lines 7-12 and 50-60 of Sonnier. The identified teachings are void of disclosing the redundant storage circuits configured to redundantly store digital data as positively claimed. The mere disclosure of identical CPUs each with a memory has not been demonstrated to provide redundant storage of digital data as claimed. Claim 23 is allowable for this additional reason.

Referring to claim 25, the system recites the one component configured to *disable an interface* in communication with the other component to disable the communication of the subsequent transactions. The Office on page 10 of the Action relies upon the teachings of col. 5, lines 45-53 in support of the rejection. However, the identified teachings fail to mention interface let alone disablement thereof. Further, the bald isolation of the link or router element for one faulty message packet of Sonnier has not been demonstrated to disclose the limitations of disabling of the interface as positively claimed. Claim 25 is allowable for this additional reason.

Referring to claim 28, the redundant system comprises storage circuitry comprising *a plurality of redundant storage circuits configured to redundantly store digital data*. At page 11 of the Action, the Office states that Sonnier discloses identical CPUs each with a memory. However, the mere disclosure of plural CPUs with memory fails to disclose or suggest the redundant storage circuits configured to redundantly store digital data. Claim 28 is allowable for at least this reason.

Further, the bald recitation of isolation of the link or router element of col. 5, lines 45-53 of Sonnier with respect to one message packet having a faulty CRC fails to disclose or suggest the claimed prevention of processing of transactions which have been identified as including a fault using the respective individual component which identified the transaction as including a fault. No details regarding the isolation are

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provided in col. 5 and the mere isolation of col. 5 of Sonnier fails to disclose the above-recited prevention limitations of claim 28. Claim 28 is allowable for this additional reason.

The claims which depend from independent claim 28 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 35, the mere disclosure of identical CPUs each with memory of Sonnier fails to disclose or suggest the claimed *means for redundantly storing digital data* as claimed. Positively-recited limitations of claim 35 are not disclosed nor suggested by the prior art and claim 35 is allowable for at least this reason.

The claims which depend from independent claim 35 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 39, the method recites identifying one of the transactions from one of the components as including a fault in combination with disabling communications of others of the transactions from the one component responsive to the identifying. At page 15 of the Action, the Office relies upon the teachings of col. 5, lines 45-53 of Sonnier. The bald generic teachings with respect to one message packet having an incorrect CRC fails to teach or suggest the claimed disabling communications of others of the transactions from the one component as positively claimed.

The claims which depend from independent claim 39 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claim 44, the method recites storing comprising *redundantly storing an identical data item of the digital data within individual ones of a plurality of redundant storage devices*. The mere disclosure of plural CPUs individually having memory fails to disclose or suggest any redundant storage teachings let alone redundantly storing an identical data item of the digital data within individual

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ones of a plurality of redundant storage devices as claimed. Claim 44 is allowable.

The claims which depend from independent claim 44 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claim 48, the mere generic isolation with respect to a single message packet with a faulty CRC of col. 5 of Sonnier fails to disclose or suggest preventing of processing of transactions from the isolated component which would have otherwise been processed. Claim 48 is allowable.


Referring to claim 49, the isolating of col. 5 of Sonnier fails to disclose or suggest the disabling of communications as defined. Claim 49 recites allowable subject matter for at least this reason.

Applicants hereby add new claims 52-62 which are supported at least by Figs. 1 and 4 and the associated specification teachings of the originally filed application.

Applicants respectfully request allowance of all pending claims.

The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,
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